

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

12	SANTANA ROW HOTEL PARTNERS, L.P.,	)	CASE NO.: C 05-00198 JW
13		)	
14	Plaintiff,	)	
15	v.	)	<b>STIPULATION AND ORDER REGARDING</b>
16	ZURICH AMERICAN INSURANCE	)	<b>THE CHANGE OF CERTAIN DATES IN</b>
17	COMPANY, GALLAGHER-PIPINO, INC.,	)	<b>THE SCHEDULING ORDER</b>
18	and ARTHUR J. GALLAGHER & CO.	)	
19	Defendants.	)	
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21	ZURICH AMERICAN INSURANCE	)	Amended Complaint Filed: November 30, 2005
22	COMPANY,	)	
23	Cross-Complainant,	)	
24	v.	)	
25	GALLAGHER-PIPINO, INC.	)	
26	Cross-Defendant.	)	
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WHEREAS, the Court issued its Scheduling Order on October 26, 2005;

WHEREAS, all of the parties agree that certain dates in the Scheduling Order should be changed in order to allow the parties to engage in a more productive expert witness exchange and to otherwise narrow the issues for and prepare for trial;

1 WHEREAS, the parties do not seek any changes to the filing date for the Preliminary Pretrial  
2 and Trial Setting Conference Statement and Proposed Order or the Preliminary Pretrial and Trial  
3 Setting Conference, which dates shall remain as currently scheduled;

4 WHEREAS, on November 16, 2005, the Court granted plaintiff Santana Row Hotel Partners,  
5 LP ("SRHP") leave to file a first amended complaint;

6 WHEREAS, a new party was named in plaintiff's first amended complaint and that party has  
7 not yet appeared in this action;

8 WHEREAS, plaintiff SRHP has given defendant Zurich American Insurance Company  
9 ("Zurich") until January 13, 2006 to respond to the complaint and has given defendant/cross-  
10 defendant Gallagher-Pipino, Inc. ("Gallagher") and defendant Arthur J. Gallagher until January 19,  
11 2006 to respond to the first amended complaint;

12 WHEREAS, all of the parties have propounded written discovery in this matter and Zurich  
13 American Insurance Company ("Zurich") has conducted several depositions;

14 WHEREAS, certain written discovery is currently pending and all of the parties intend to  
15 propound additional written discovery;

16 WHEREAS, several more depositions have been noticed by the parties, but calendaring  
17 conflicts arising from the schedules of both counsel and the witnesses have prevented the parties  
18 from proceeding and will prevent those depositions from being completed until mid-March 2006;

19 WHEREAS, the parties still intend to subpoena several third parties, and arrangements must  
20 be made for deposing many of those witnesses outside of California, including on the east coast;

21 WHEREAS, all parties believe that the information they will solicit through the outstanding  
22 depositions and additional written discovery will be critical to (1) the preparation and exchange of  
23 their respective expert reports pursuant to Rule 26(a)(2)(B), and (2) the preparation and filing of  
24 dispositive motions ;

25 WHEREAS, all parties agree that, under the current schedule, they will not have time to  
26 adequately prepare for either a productive Rule 26(a)(2)(B) exchange or meaningful dispositive  
27 motions;

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1 WHEREAS, counsel for Zurich and plaintiff SRHP met and conferred on or about November  
2 30, 2005 regarding plaintiff's responses to certain written discovery and plaintiff agreed to amend  
3 and supplement said responses, but counsel for plaintiff SRHP was engaged in a lengthy trial on a  
4 separate matter in November and December of 2005 and was thus precluded from reviewing and  
5 revising its responses to Zurich's written discovery;

6 WHEREAS, counsel for plaintiff SRHP has agreed to provide certain amended and/or  
7 supplemental responses to Zurich's discovery by the end of January 2006;

8 WHEREAS, counsel for Zurich and defendant/cross-defendant Gallagher met and conferred  
9 on or about November 8, 2005 regarding Gallagher's responses to certain written discovery, but were  
10 unable to resolve those issues;

11 WHEREAS, on or about November 17, 2005, Zurich filed a motion to compel further  
12 responses to that written discovery and scheduled a hearing date of December 27, 2005, which was  
13 continued *sua sponte* by Magistrate Lloyd to January 10, 2006;

14 WHEREAS, Gallagher has now agreed to provide amended responses to the subject  
15 discovery;

16 WHEREAS, the parties hereto have encountered certain difficulties completing the discovery  
17 necessary to adequately brief the motions/cross-motions for partial summary judgment;

18 WHEREAS, previous modifications to the scheduling of this case are as follows: On  
19 November 16, 2005, the Court granted plaintiff SRHP leave to file a first amended complaint; on  
20 November 8, 2005, Magistrate Lloyd continued Zurich's motion to compel Gallagher's responses to  
21 written discovery from December 27, 2005 to January 10, 2005; on October 26, 2005, the Court  
22 issued the Scheduling Order in this case; on August 4, 2005, the Court entered a stipulated order  
23 changing the hearing dates on cross-motions for summary judgment from October 24, 2005 to  
24 December 19, 2005; on May 9, 2005, the Court continued the hearing date on Zurich's Motion to  
25 Dismiss from May 16, 2005 to August 22, 2005; and on February 23, 2005, the Court vacated the  
26 "Order Setting Initial Case Management Conference" because the case was reassigned to Judge  
27 Ware.

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WHEREAS, the changes requested herein would not effect the currently-scheduled dates for (1) the filing of the Preliminary Pretrial and Trial Setting Conference Statement and Proposed Order, or (2) the Preliminary Pretrial and Trial Setting Conference; and

WHEREAS, all of the parties agree that, in light of the complexity of the issues in dispute and the nature and scope of the discovery that still remains outstanding, the changes requested herein are necessary to the productive and orderly handling of his matter;

IT IS THEREFORE STIPULATED by and between the parties hereto through their respective attorneys of record as follows:

1. The date regarding expert witness disclosure referenced in Paragraph 4 of the Scheduling Order is changed from April 7, 2006 to May 15, 2006;
2. The date regarding the hearing of motions to exclude experts/expert testimony referenced in Paragraph 7 of the Scheduling Order is changed from June 5, 2006 to July 15, 2006;
3. The date regarding disclosure of rebuttal expert witnesses referenced in Paragraph 8 of the Scheduling Order is changed from April 17, 2006 to May 30, 2006;
4. The date regarding the close of discovery referenced in Paragraph 10 of the Scheduling Order is changed from June 9, 2006 to June 30; and
5. The date for dispositive motions directed to liability on the first and second claims for relief referenced in Paragraph 11 of the Scheduling order is changed from February 27, 2006 to March 27, 2006

DATED: January 5, 2006

RUBY & SCHOFIELD

/s/  
By: \_\_\_\_\_  
Steven A. Ellenberg  
Attorneys for Plaintiff SANTANA ROW  
HOTEL PARTNERS, L.P.

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1 DATED: January 6, 2006

JONES TURNER, LLP

2 /s/

3 By: \_\_\_\_\_

4 Steven D. Turner

Attorneys for Defendant ZURICH AMERICAN  
INSURANCE COMPANY

6 DATED: January 5, 2006

SELVIN WRAITH HALMAN, LLP

8 /s/

9 By: \_\_\_\_\_

Gary R. Selvin

Attorneys for Defendant GALLAGHER-  
PIPINO, INC.

12 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

14 DATED: Jan. 10, 2006

/s/ James Ware

The Honorable James Ware  
United States District Judge